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Education Committee
January 22, 2008

[LB849 LB850]

The Committee on Education met at 1:30 p.m. on Tuesday, January 22, 2008, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB849 and LB850. Senators present: Ron Raikes, Chairperson; Gail Kopplin, Vice Chairperson; Greg Adams; Bill Avery, Carroll Burling; Gwen Howard; and Joel Johnson. Senators absent: Brad Ashford. []

SENATOR RAIKES: Good afternoon, and welcome to this hearing of the Education Committee of the Nebraska Legislature. This is our first hearing for this, the second session of the 101st Legislature--or close anyway. Pleased you could be here. We will have a hearing schedule this session about 10 days. We don't know yet, because not all the bills have been referenced, but probably something in the range of 25 to 30 bills. We're going to pick up the pace probably a little bit, maybe not right after today, but in the second or third hearing period. We've got to abide by the bill introduction and the requirements for public notice of the hearings and all that sort of thing. So today really we had two eligible bills to fit for this hearing, which are two introduced by Senator Erdman, LB849 and LB850. Before we get to that, I am sure that I need to remind you of the rules and how we do all this stuff, and I will try to remind myself as we do it. I'll start with an introduction of our committee, who is rapidly converging on the place here. To my far right, soon will be Senator Brad Ashford from Omaha; then Senator Gwen Howard is just now having a seat--she's also from Omaha; Senator Carroll Burling from Hastings; our committee's research assistant is Matt Blomstedt; I'm Ron Raikes, District 25. To my immediate left is Senator Gail Kopplin, our committee's Vice Chair; we have Senator Greg Adams from York, Nebraska; Senator Joel Johnson from Kearney soon will be here; and Senator Bill Avery from Lincoln next to Kris Valentin, our committee's clerk; and our page this year--new person on the job is Brennen over here on the right. So let me remind you, we'll have each bill introduced by a member of the Legislature. Following that we'll have proponent testimony, opponent testimony, neutral testimony followed, if desired, by a close by the introducer. At some point, I guess we have the light sitting there today, we'll see how that works, but generally speaking the rule is five minutes per testifier. So if you wish to testify on a bill, try to organize yourself so you can operate within that five-minute limit. Turn off your cell phones, please, if you have those on, and can you think of anything else? My committee seems enthralled by this description of... Okay, so if you would, stand at ease until Senator Erdman arrives. []

SENATOR ADAMS: It feels like we've never been away. []

SENATOR RAIKES: So I think we're ready to go, except I don't think we have Senator Erdman, who is our star for today. []

CHERYL WOLFF: He'll be here in just a moment. []

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SENATOR RAIKES: Okay, so if you would, stand at ease until Senator Erdman arrives. Senator Erdman, welcome. []

SENATOR AVERY: You're late. []

SENATOR ERDMAN: I was on time next door, Senator Avery. []

SENATOR RAIKES: After that little exchange, we'll try to move on, and... []

SENATOR ERDMAN: With all gratefulness, I appreciate that, Mr. Chairman. My name is Philip Erdman. I represent the 47th Legislative District. It's my understanding we'll be taking these bills separately. So you want me to introduce each one of them? Or are you going to take them together, Mr. Chairman? [LB849]

SENATOR RAIKES: You know, we're still flexible on that. How would you like to do that? [LB849]

SENATOR ERDMAN: It's your show. I think the first bill will probably have no supporters, and I think the second bill will probably have some supporters, so you decide. [LB849]

SENATOR RAIKES: Well, so given that, with no supporters, maybe the first one won't take long. So let's do that one first. [LB849]

SENATOR ERDMAN: That's never been the policy of the Nebraska Legislature regarding education bills, but we can still try it. [LB849]

SENATOR RAIKES: To have no supporters? Oh, yes it has. (Laughter) [LB849]

SENATOR ERDMAN: And not take very long, I said. The first bill then, Mr. Chairman, LB849 has been brought to you through my own effort and research, and LB849 would outright repeal Section 79-502, which authorizes school boards or boards of education to provide its members with hospitalization, medical, surgical, accident, sickness, or term life insurance coverage. It is one of the possibilities that I think could be pursued by the Legislature in this area, and LB850 is a clarification. I will distribute some additional information once we get to LB850, so that you kind of have an idea of what the impact is fiscally to a school district, as well as a practice that is going on in at least one school district that I'm aware of, that I think is outside of the intent of LB1177, which was passed in 1972. And so I will stop with LB849, because the simple purpose is to repeal the existing authority for school boards to provide health insurance or other insurance to their school board members. [LB849]

SENATOR RAIKES: Thank you, Senator. Questions for Senator Erdman? Senator

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Burling has one. [LB849]

SENATOR BURLING: Senator Erdman, is there a cap in the current law on how much can be spent for premiums? [LB849]

SENATOR ERDMAN: There is not. [LB849]

SENATOR BURLING: It's just up to the members to make that decision. [LB849]

SENATOR ERDMAN: It is a permissive authorization for local school districts or boards of education to decide whether they want to provide it. There is no restriction in law as to what they may provide or how they may provide it. [LB849]

SENATOR BURLING: Do you have any idea how many school districts in the state provide this benefit for their members? [LB849]

SENATOR ERDMAN: I do not, Senator Burling. In fact, in visiting with John Bonaiuto of the school board association, neither do they. It is an interesting practice that began in the mid '70s, or the early '70s as an idea to provide an incentive for people to run for a local board of education. As you can imagine, a benefit at that time was probably somewhere between \$20 and \$40 a month, when you get to figuring out what it would cost for health insurance in the early '70s. In fact, I had that very conversation with one of our colleagues on our trip to Saint Louis this weekend. Now it's anywhere between \$400 and \$1000, depending upon the type of coverage, and so it is a substantial benefit. But at the time it was designed to be a little urging I guess, or an opportunity for individuals that would seek, or would otherwise not seek, to run for the school board to run for the school board for that benefit. [LB849]

SENATOR BURLING: Thank you. [LB849]

SENATOR RAIKES: Other questions for Senator Erdman? Senator, the current law as you indicated in your example or example you just gave, a school district would be allowed to pay for the board member's insurance, but also it's possible that they would simply offer them an opportunity to be a part of the plan and pay nothing. Or that they would simply say we're not going to provide that regardless. This is all a possibility with the current statute that you would repeal here. [LB849]

SENATOR ERDMAN: Right, and Section 79-502 is 4 lines long, and it actually probably mirrors the statement of intent. I mean it simply authorizes that those types of coverage can be provided. There are school districts that I'm aware of that require the school board member to pay the premium. There are school boards that I'm aware of that pay the full amount for the school board members, and then I'm also aware there are school districts that don't provide this benefit to their board members at all. And so it is strictly

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permissive and it allows a great deal of flexibility to those school districts, and they choose how they'd like to proceed. [LB849]

SENATOR RAIKES: Isn't that another way to describe local control? [LB849]

SENATOR ERDMAN: Candidly, it is. I think when you get to the point where you have the potential that a school district could pay \$76,000 out of their school budget for their school board members to receive health insurance, I think it goes beyond local control to lack of common sense. That would be the topic of the information I'll distribute to you under LB850. I think as you well know, scrutiny over the way school districts spend their money has largely been a target or topic of discussion by your committee regarding state aid, and by your legislation that was recently debated on the floor regarding legal fees. I have a hard time thinking that an individual that pays no filing fees, that has no requirements for filing any accountability to disclosure requirements, that is receiving a benefit that potentially is in excess of \$15,000 to \$20,000, pretax, and serves on a school board is entitled or is required to receive that type of compensation to serve on a local school board. So the question isn't necessarily local control, but whether that's the right public policy. [LB849]

SENATOR RAIKES: Although, certainly, you correct me, I think. This is information that could be made available to the public who votes for or against these people, and they could render a decision in that form. [LB849]

SENATOR ERDMAN: That is a fact. That has been a topic of campaigning in one of the school districts in my legislative district, at least for the past three elections. It has been a topic in that same board for quite a while. And I know from personal experience because my father was a member of that school board who did not receive the benefit, and actually made the motion repeatedly to have it discontinued without a second due to the fact that most of the other board members were receiving the benefit. I think that at some point, as you're well aware, we have to set what is fair public policy. LB849 may not be fair to some of those districts that are currently providing the benefit. But at a minimum, I think it will be essential for us to clarify the practice that we believed, or the Legislature believed, they were putting into place, and that will come in the form of LB850. [LB849]

SENATOR RAIKES: Okay. Other questions for Senator Erdman? I don't see any. Thank you, Senator. Proponents, LB849? Opponents, LB849? Mr. Bonaiuto is dancing up to the...(laughter) John. [LB849]

JOHN BONAIUTO: Good afternoon, John Bonaiuto, executive director of the Nebraska Association of School Boards. My last name is spelled B-o-n-a-i-u-t-o, all the vowels but an E, and I'm trying to figure out how to remedy that. Senator Erdman and I have had a few conversations about his bills, and so it's no surprise to him that I'm here opposing

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this particular bill that would be the outright repeal of the statute to allow board members to take health insurance. And I want to make sure that this is...the way the statute is written is it's health insurance only, no other additional. The dental portion is not a part of the law. This is one of those things that when this law was passed, I think it was to help support health insurance coverage and programs for employees, and allowing board members was a way to get a broader base of involvement. It was also an incentive in a way, in many smaller communities where board members are self-employed in ranching, farming, or ag operations that it's difficult to get insurance, and this was good insurance that could be made available to school board members. Senator Raikes touched on the local control issue. I know you would be shocked if I didn't work that into my testimony somewhere along the way, but the local control piece--this is a very short law, and it's permissive, and so in many or most instances I think board members that avail themselves to this option are paying the entire premium themselves. In other circumstances, it may be partially paid by the board, partially paid by the district, and then in other circumstances or situations like Senator Erdman described, the board members are allowing the district to pay the entire bill. It is totally up to the district and the board with the idea that if a board is doing something that gets the attention of the community, that those board members surely could be unelected at the next election if the community so desired. I can tell you that there is very limited participation of school board members across the state that avail themselves to this option, and we have done some informal surveying. There is not hard data as far as how the participants are characterized or designated in the data from the insurance carrier. When we have a school district report how many individuals are taking insurance, it's how many are taking family and how many are taking single coverage. It's not by custodians or principals and teachers and school board members in that respect. So right now health insurance, if you're looking at the family only--I'll round this off to family only--annual rate would be about \$13,000, and the single rate in the \$4,500 range just to give you some idea of the value. Again, very limited. I'm guessing 100 board members or less statewide may be taking this insurance out of 80,000 people that are insured by the EHA, Educator's Health Alliance. This program is offered through the school boards association, school administrators, and the Nebraska State Education Association. It's not Blue Cross/Blue Shield. That is our carrier, but the individuals, the organizations that hold the contract determine who is able to participate in the underwriting rules. So I've given you more information than you probably wanted on this issue, but that sets the stage for discussion possibly on the next bill. [LB849]

SENATOR RAIKES: Thank you, John. Senator Burling has a question. [LB849]

SENATOR BURLING: Thank you for your testimony. Did I hear you right, that 79-502 statute allows only for health insurance and not life insurance? [LB849]

JOHN BONAIUTO: It's just health. It talks about health insurance only for board members to participate in this program. It doesn't take into account the other coverages

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that might be available in the district, and the way that the EHA, the Educators Health Alliance program, is structured, health and dental are actually offered to employees as a package, but board members are not part of the dental. It's just basically what the law says, health only. [LB849]

SENATOR BURLING: So how do you feel about the word "term life insurance" in this bill? You don't support? [LB849]

JOHN BONAIUTO: I think that as we look at the issue, it's basically the health insurance, or the piece that is being questioned is making health insurance available to school board members, and that's the area that I focused on is just the health. [LB849]

SENATOR BURLING: So you interpret the law right now to say that term life insurance is not now allowed for school board members? [LB849]

JOHN BONAIUTO: It's not something I've been aware of. [LB849]

SENATOR BURLING: Well, you're not aware of any school board members that get that benefit. Thank you. [LB849]

JOHN BONAIUTO: No. That's correct, Senator. [LB849]

SENATOR RAIKES: Senator Avery. [LB849]

SENATOR AVERY: You presented the availability of health insurance as an incentive to get people to run for office. Do you have any problem with people who run for school boards just to get a benefit of value, rather than out of an interest in public education? [LB849]

JOHN BONAIUTO: Senator, this law predates me by a number of years, and so I was trying to characterize the reasons that I was listing for the possibility of this statute being on the books, and that was possibly one of them, that if someone who was having a hard time getting health insurance, that would be an option. [LB849]

SENATOR AVERY: And they could actually have no interest in the issues coming before the board. Their only interest being to get the benefit. [LB849]

JOHN BONAIUTO: That could be a possibility. [LB849]

SENATOR AVERY: I won't pursue that. You probably couldn't answer the questions, it'd be too much conjecture. Thank you. [LB849]

SENATOR RAIKES: Senator Johnson. [LB849]

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SENATOR JOHNSON: I think this makes for a very interesting discussion. [LB849]

JOHN BONAIUTO: I was worried about that, Senator. [LB849]

SENATOR JOHNSON: You know one of the things that H.L. Mencken once said was the good thing and the bad thing about democracy is they get what they pay for. And I think that kind of applies here. If a school board cannot attract members without reimbursement, where does that leave us as far as government is concerned? That our citizenry cares so little about their government that they have to be paid to take, you know, really donate the few hours a week or something like that, for one of the basics of our democracy. I find that very, very troubling. And one of the things that makes it even more troubling to me is that we like to talk about property tax relief. I don't know that I've seen a property tax bill in the five years I've been here. They are not property tax relief bills, they're property tax shift bills. So in essence, what we're having here, some school boards are actually asking other citizens to pay for their health insurance. How do you reconcile that? [LB849]

JOHN BONAIUTO: Senator, again, I would say that the good news in this is that it's being used very, very, very limited across the state. [LB849]

SENATOR JOHNSON: Today. Today. Give me that guarantee five years from now. [LB849]

JOHN BONAIUTO: I can't predict the future, but I can tell you that the history has been very limited use, and so the vast majority of the school board members that run are very much interested, and many of these school board members that avail themselves to this option--since it's a law, I think they may be running for the right reasons, but take advantage of this if they need to. But the vast majority of the school board members are happy to serve as volunteer board members, they don't want to be compensated, and take their role as a school board member very seriously as a community service. [LB849]

SENATOR JOHNSON: Frankly, I don't see how they can make that statement and allow other school board members to do that. Where is the organization's responsibility to tell their members that you shouldn't be doing this? That you are voting yourself a partial living? [LB849]

JOHN BONAIUTO: And again, this is something that has been on the books a number of years, right, wrong or what have you. [LB849]

SENATOR JOHNSON: You're telling me the history, and I understand the history, why today when we see with it's going on with just a small group of people now, now is the

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time to take the action. [LB849]

JOHN BONAIUTO: And Senator... [LB849]

SENATOR JOHNSON: Try and do it when there's 50,000 doing it. [LB849]

JOHN BONAIUTO: I agree with what you're saying, and I believe that LB850 may be a solution, which would be the next bill. [LB849]

SENATOR JOHNSON: I've been ornery enough for the first day, I guess I can quit. [LB849]

SENATOR RAIKES: Senator Avery. [LB849]

SENATOR AVERY: Senator Erdman said that the section that is to be repealed simply permits school boards to do this. You're opposing taking that permission away. But the school boards are the ones that vote this benefit for themselves, right? [LB849]

JOHN BONAIUTO: That's correct. [LB849]

SENATOR AVERY: You see a conflict there? [LB849]

JOHN BONAIUTO: Yes, I do. [LB849]

SENATOR AVERY: So why would you oppose repealing the whole section? [LB849]

JOHN BONAIUTO: Well, I oppose the repeal. I would like to amend it, and I believe Senator Erdman is going to amend this... [LB849]

SENATOR AVERY: In LB850? [LB849]

JOHN BONAIUTO: ...yes, and bring it to a place where I think it makes more sense and it eliminates the conflict. [LB849]

SENATOR AVERY: Senator Erdman said that even your organization does not know how many school board members participate in this. [LB849]

JOHN BONAIUTO: That's correct. [LB849]

SENATOR AVERY: You said about 100, how did you come up with that number? [LB849]

JOHN BONAIUTO: We did some informal surveying, and we know it's a very, very

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limited use. [LB849]

SENATOR AVERY: How informal was the survey? [LB849]

JOHN BONAIUTO: We checked with districts and just asked do you have any school board members taking insurance, and we didn't ask for names or what have you. [LB849]

SENATOR AVERY: You called all the school boards? [LB849]

JOHN BONAIUTO: We do some e-mail checking, and this has been an issue that has been before the Legislature in past years, so we know a little of the history about it and the utilization hasn't changed, at least in the last 10 or 12 years. It's always been a very small participation. And I would say again, the majority of the people involved pay the bill themselves. They avail themselves to the insurance but they pay the premium themselves. [LB849]

SENATOR AVERY: So you have that, that's not fuzzy information or informal. You know that? [LB849]

JOHN BONAIUTO: That is part of the informal information. The only way we could actually get hard data is if we went through all of the people listed that take insurance in each school district, and call out the board members because they're part of the aggregate group. [LB849]

SENATOR AVERY: But you represent the school boards. [LB849]

JOHN BONAIUTO: Just school boards. [LB849]

SENATOR AVERY: Why couldn't you just send out an e-mail to all the school boards and say we want this information by Friday? [LB849]

JOHN BONAIUTO: We get names, we just said do you have people, and the responses we got for the majority of instances would know we do not have people taking insurance. [LB849]

SENATOR AVERY: How many school board members are there statewide, do you know? [LB849]

JOHN BONAIUTO: There's over 2,000, a little over 2,000... [LB849]

SENATOR AVERY: So if more than 100 people are taking advantage of this, let's say, 1,000, that could be a lot of money. That could be adding a lot to people's property tax

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bills. [LB849]

JOHN BONAIUTO: If there were that many. [LB849]

SENATOR AVERY: But your information is informal. [LB849]

JOHN BONAIUTO: Yes, and there are. [LB849]

SENATOR AVERY: So I could assume it's 1,000, and that would be an informal guess. [LB849]

SENATOR RAIKES: Senator Kopplin. [LB849]

SENATOR KOPPLIN: I was just curious. When we report these expenses on the annual financial report, wouldn't that data show up under board expense? [LB849]

JOHN BONAIUTO: I've not looked at that report for that. I don't know if it would show up under there or not. If it was.... [LB849]

SENATOR KOPPLIN: It wouldn't show up under instruction where the teachers are. [LB849]

JOHN BONAIUTO: If it was reported correctly, that may be a place where it would show up. [LB849]

SENATOR KOPPLIN: If someone is reporting \$70,000 in health insurance, you can assume it's their board members. [LB849]

JOHN BONAIUTO: Yes. [LB849]

SENATOR RAIKES: Okay. Other questions? John, this section of statute deals specifically with school boards. [LB849]

JOHN BONAIUTO: Yes. [LB849]

SENATOR RAIKES: And I think a different place in statute, ESU board members are allowed. Should we be consistent between school boards and ESU boards? [LB849]

JOHN BONAIUTO: Yes. They would be considered elected officials also, and in the same vein as school board members, have the same duties and responsibilities. [LB849]

SENATOR RAIKES: I have a note here that Class Vs may not be included in this as

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well. They should also be included in your judgment? [LB849]

JOHN BONAIUTO: Yes. [LB849]

SENATOR RAIKES: So we should treat all those the same? What about other political subdivisions, NRD boards, county boards? [LB849]

JOHN BONAIUTO: I'm not familiar with whether they have this option or opportunity or not. Our plan is unique and again, it's something that the EHA, or Educators Health Alliance, has snubbed... [LB849]

SENATOR RAIKES: But this is not really specific to your plan, although admittedly it is unique. This is specific to the issue of should taxpayers pay for health insurance for elected board members. [LB849]

JOHN BONAIUTO: And as a policy I would say no. [LB849]

SENATOR RAIKES: You would say no to the extent that they shouldn't pay for it, and they in fact shouldn't even be allowed to have the policy even if they paid for it themselves? [LB849]

JOHN BONAIUTO: I would like to see the option remain if they pay for it themselves. [LB849]

SENATOR RAIKES: Although that may well be a significant benefit in and of itself. [LB849]

JOHN BONAIUTO: Yes. [LB849]

SENATOR RAIKES: You may have a much better option being able to buy the plan than going to a local bank or wherever you might go to buy some. [LB849]

JOHN BONAIUTO: Exactly. You get better insurance at a better cost if you're part of a group. So that still would be a benefit, but it would not be part of the district expenses. [LB849]

SENATOR RAIKES: Okay. Senator Johnson. [LB849]

SENATOR JOHNSON: Could I just add, district expenses passed on to other people. [LB849]

SENATOR RAIKES: Don't you agree? I want to make that a question for you. Okay, thank you very much, John. Do we have other opponents? Herb, welcome. [LB849]

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HERB SCHIMEK: Welcome. Members of the Education Committee, my name is Herb Schimek, S-c-h-i-m-e-k, representing the Nebraska State Education Association. Probably one of the few people around who remembers when this happened. The reason at the time I recall, the school board association came to us, who had control of the health plan at that time and asked if some of their members could become members, and we said yes. We thought it was better that people be covered by insurance than not be covered by insurance. Also at that time, the rates at the local banks for the same type of coverage was almost double, and so we thought this would be a benefit that we could support, and we have supported it all through this time. I'm against LB849. I think LB850 has some things that we can work with. I think people probably ought to be paying for their benefit, but I have no problem with them having the same rates as the school employees get. I think it's a benefit to the community that these people be covered by insurance. It's almost catastrophic if you have some health problem that you hadn't planned on, and I know this from a personal fact. I had never been in a hospital until I got cancer in 1990, and without the health plan I would have been destitute. So I think it's to the advantage of people to be covered by insurance, and this is probably the largest Blue Cross/Blue Shield group in the state. We cover what, John, probably around 68,000 people, and so it's to the advantage of people to belong. Any questions? [LB849]

SENATOR RAIKES: Okay, thank you, Herb. Senator Johnson. [LB849]

SENATOR JOHNSON: I agree with you from what you just said. As a matter of fact, last year brought up the potential where we really asked people to make a contribution with our EMTs where we get them to walk away from their business and take care of somebody else or social activities or sleep to really provide a service, and would it be reasonable to somehow find a plan such as we have here? But I still go back to the fact that for people to vote themselves, in the sense a pay increase, and as Senator Erdman was saying, in sometimes pretty substantial pay increase. And over the years of my friends that have become white collar criminals, it really comes down to how much it takes to put you over the line, and so enough said. I agree with what you're saying. [LB849]

HERB SCHIMEK: You've got to realize that I'm in a crack here, because I'm not the biggest supporter of local control usually (laughter), but in this instance I am supporting it. [LB849]

SENATOR JOHNSON: I didn't give you the opening. [LB849]

HERB SCHIMEK: I usually think it's spelled L-o-c-o. Okay, thank you. [LB849]

SENATOR RAIKES: Any other questions? Thank you, Herb. [LB849]

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HERB SCHIMEK: Thank you. [LB849]

SENATOR RAIKES: Any other opponents, LB849? Neutral testimony, LB849? Senator Erdman to close. [LB849]

SENATOR ERDMAN: Just briefly, Mr. Chairman, if we have overlooked other sections, generally ESUs, I would concur that it needs to be consistent--and that's an oversight on my part, but whether it's this bill or the next bill we'd be willing to work with the committee, whatever the committee's wishes would be, to clarify the practice. [LB849]

SENATOR RAIKES: Okay. Any questions for Senator Erdman? Okay, that will close the hearing on LB849. We'll move to LB850, and Senator Erdman. We're just full of anticipation here about this. And particularly interested in Senator Johnson's friends who are white-collar criminals but...(laughter) [LB849]

SENATOR AVERY: Yeah, I noticed. [LB850]

SENATOR JOHNSON: Don't you have some? I bet we all know people. [LB850]

SENATOR AVERY: They haven't been caught yet. [LB850]

SENATOR ERDMAN: (Exhibits 1, 2) Mr. Chairman, Senator Adams and I shared the same glance when Senator Johnson made that comment of his friends that are white-collar criminals, so that was well noted. Phil Erdman representing the 47th Legislative District, here to introduce LB850. LB850 amends the existing statute which provides for members of a school board or board of education to receive hospitalization, medical, surgical, accident, sickness or term life insurance coverage or any one or more of such coverages. The bill that you have before you would provide that coverage shall not be provided to spouses or dependents of board members, only the board members, that a school board or board of education which opts to provide insurance coverage under that section shall pay the same proportion of the insurance premium for the board members as is established in the collective bargaining process for permanent employees of the school district, and report quarterly at a board meeting the board members who have elected such coverage at the cost of the district of all insurance premiums, and such reports shall be made available in the district office for review upon request. After drafting the legislation, we have since come up with AM1603, which would further clarify the responsibility of the board member in that the board member would pay the premium regardless of what the collective bargaining was, it would be at that same rate. And the scenario that I'll give you is that there could be a school district in which the school district pays the full premium amount for their employees. Under the way that LB850 is drafted and would amend the section, the school board members would still be entitled to that full policy coverage without cost to them. And so the theory

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behind the amendment, and again we will work with you to clarify it, is that the individuals who would receive this benefit under the school district's insurance program would be paying the premium for his or her coverage. The second handout that I've given you is a breakdown of the actual costs of board members' health insurance between 2001-2007 for School District 21 in Bayard, Nebraska. The monthly cost for an individual policy currently is \$388.35. For family coverage, for the same monthly cost, it's \$1,063.81. So the annual cost for a board member individual policy would be just north of \$4,600, and for a family or member and their family policy it's just above \$12,700. They would pay if they opted for the individual policy, which is what this bill would restrict them to, that \$388.35 out of their pocket. They would still be eligible to participate in the group plan, the pool if you will. They would get the opportunity for the benefits that would provide to them, but they would be paying both the employer and the employee's share or the cost of that premium directly. So they would avail themselves of the policy or the opportunity, as Mr. Bonaiuto pointed out in his testimony in LB849, but they would still be 100 percent responsible for the cost of that premium, which as you've well pointed out, Mr. Chairman, still may be a benefit to them beyond what they would've been able to get outside the elected position. I have and my office has a copy of the transcript from LB1177 in 1972. The statement of purpose, which is what the statement of intent was called at that time, provided that such authority to the school board should be subject to the same conditions that the governing board should provide to its employees. And at that time, the districts only paid a percentage of the premium for the individual and employees were required to pay the full cost of the coverage for family members. So in addition to understanding what's in place now, you have to understand the practices that were in place both in the area of school board policy or proposed employee policy for school boards, as well as the impact that health insurance had on individuals in general and how this context has brought this section of law to be what it is. The disclosure issue I think is important. As you're brutally aware, as members of the Legislature, not only is our salary disclosed, the expenses we receive for being members of the Legislature are disclosed to the public upon request. The accountability and disclosure requirements that we have for our personal investments or personal assets are also disclosed. You also have the responsibility of disclosing any campaign expenditures that you may have, and on top of all that you have a responsibility as a member of the Legislature to pay 1 percent of your annual salary as a filing fee. Candidly, if an individual was a board member for a school board that took the full family health insurance policy, their annual benefit would exceed that of members of the Nebraska Legislature. It would exceed \$12,000 to the tune of \$12,700. The question, at least in my mind, is that the right policy for the state of Nebraska? I don't begrudge other elected officials for having better benefits than members of the Nebraska Legislature do. In fact, I probably wouldn't wish the benefits we receive on any other elected official in Nebraska or in the future. But ultimately it comes down to the public policy. Are we following what the intent of the law was when it was passed in 1972 or not? And regardless of what your position is on whether they should have this benefit or not, which was the previous bill, I wholeheartedly say that we are not; that we

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should clarify the process. I can provide you copies or read into the record the comments made when this bill was going through. There was discussion that it would only be limited to the members of the board of education. There was some discussion about how far the policy would actually extend as far as the cost and what the responsibility of the board member would be. But again, you have to go back and understand within the context of the debate in 1972, what were the practices in place? And they would be more in line with what's being proposed to you in LB850 and the amendment, than what the current practice is of some of the school boards across the state that I'm aware of. [LB850]

SENATOR RAIKES: Okay, thank you, Senator Erdman. Questions? Senator Burling. [LB850]

SENATOR BURLING: Thank you, Senator Erdman. In this district that this has taken place, I do understand I think that the district pays the premium. [LB850]

SENATOR ERDMAN: It's my understanding that the district pays 100 percent of the health insurance for the employees. And in fact during the last collective bargaining, the employees left their potential pay raise on the table so the district would share more of the cost of insurance, which would have been maintaining the 100 percent coverage that they pay now. [LB850]

SENATOR BURLING: Okay. When that board member leaves the board, can they keep the insurance and pay it themselves? [LB850]

SENATOR ERDMAN: It's my understanding that coverage is only available to them as long as they're a member of the board. [LB850]

SENATOR BURLING: Okay. Thank you. [LB850]

SENATOR ERDMAN: And that's both my interpretation of the statute as well as the practice of members that have received the benefit while they were previously on the board, and the driving motivation for at least one of them to run again, so that they could receive the benefit again. [LB850]

SENATOR RAIKES: Senator Kopplin. [LB850]

SENATOR KOPPLIN: Thank you, Senator Erdman. If the board member is paying the full cost, does it really matter whether that's single or family? [LB850]

SENATOR ERDMAN: That's actually a very good question, Senator Kopplin, and I think that's one of discussion. We had three bills drafted. One would have repealed it, one would have provided for individual coverage only, and one would have provided for

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family coverage under the same criteria you see in LB850. Again, whatever the committee feels is appropriate. I firmly believe that this is a benefit that they should be paying for, and whether the committee feels it should only be limited individuals or whether they should pay for it, should they choose to take advantage of this, for their family as well, I think that's a healthy discussion and ultimately will have to be decided. I do believe that regardless of what happens, there does need to be clarity in the way this statute is applied, and what may be exercised locally for providing members of boards of education this benefit. [LB850]

SENATOR RAIKES: Other questions? Senator Avery. [LB850]

SENATOR AVERY: Senator Erdman, do you have any provision in this bill for a transition period for those people who may suffer an undue hardship if they're currently on the program? Maybe they have a catastrophic illness. You're not going to cut them off and leave them destitute, are you? [LB850]

SENATOR ERDMAN: It would be my understanding, Senator Avery, that 90 days after legislative session, should this bill pass, that they would be required to comply with the law. If that's not satisfactory to the committee, we can work with you. I think one of the things one must also consider is in that same situation, you as a taxpayer didn't elect somebody to provide for their own benefit. As a school board member, you hire employees. If an employee comes in and applies for a position to be a permanent teacher, maybe it's a science teacher in high school, they have known medical problems, medical histories, maybe they come from another state that aren't part of the current plan or current pool, that's the decision you're making as a school district to include that cost in your district's operating expense, and to be shared by the other 68,000 members of the Educators Health Alliance. If you are a member of the board of education, I don't think that's envisioned that you should bring that liability to the school district and it goes back to what I think Senator Johnson was pointing out, you're asking other taxpayers to directly pay for your benefit to take care of yourself. To me, I think that's a little dicey, I think that's a little difficult for me to get my hands around. Are there people that are benefitting that may be in those situations? I would imagine there are, and I would imagine that most the people taking the benefit probably closely align with your example, maybe more so than an individual like myself that probably has other options. But just as it's a cost or a risk to the district to hire a permanent employee with that, the difference is that you know that going in and that's part of the district's responsibility. Having a board member get that benefit increases the cost to everyone as well. And it's a different dynamic when you're choosing to provide a benefit to somebody who's an elected official that may not need it but has that opportunity than somebody that's being chosen to do that full time as an employee. But those are all part of this discussion. Those will all have to be considered, and if you would say that going forward that would be more appropriate, I will tell you in the Bayard school district, the policy was drafted that no members beyond the date could receive that benefit. It would

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sunset out, it would grandfather out, either due to the way that policy was adopted or some other provision they were told that they couldn't do it that way. And so now all members that were elected in the last election are eligible to receive the benefit of which one does not. So we can work through that, but again, the pool is a reflection of the cost of the entire membership that are taking advantage of that. The cost of the pool is shared by more members, if there's more costs, based on who's in the pool, it's going to be a higher cost to everyone. So all of that's within this discussion. And I rambled a little bit, but I hope it got to your point. [LB850]

SENATOR AVERY: My concern is that someone who joined a school board and took advantage of the benefit, and then struck with a catastrophic illness would be in a situation where they would be uninsurable if they suddenly lost this coverage. I was wondering perhaps if there's some language we could put in there to provide for a transition period to make sure that these people are not left in a tough situation without an option. [LB850]

SENATOR ERDMAN: They wouldn't technically be uninsurable. Their premium would go up. Obviously the fact that they have insurance coverage in place makes them insurable, and depending upon COBRA plans or other things, they would have opportunities to transition. Those things are already provided. I think the issue is probably more pointed if an individual doesn't have health insurance and would try to get the coverage, they're probably less insurable than an individual that currently has something in place and sees that they will have to be phased out of that. As I shared with Senator Burling, these individuals could get unelected. They could get beat in the next election. They could choose not to run again. They have to make a decision there about how the policy would be changed to meet their needs at that point. So there's that transition period in place now when you're not able to carry it beyond your term. Again, we can visit whatever solution you think is fair and equitable. I think it has to be fair and equitable, however, on two sides of this. One is on the taxpayer side, and the other side is on, as you've pointed out, those individuals that are currently receiving the benefit. [LB850]

SENATOR AVERY: Thank you. [LB850]

SENATOR RAIKES: Any other questions? So Senator Erdman, to pin you down here, you would like to see a prohibition against a political subdivision paying for health insurance for a board member if that board member serves without salary? [LB850]

SENATOR ERDMAN: I think that's an accurate reflection of where we're at... [LB850]

SENATOR RAIKES: I heard you kind of waffle on whether or not if they paid for it themselves they could also get the family coverage? [LB850]

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SENATOR ERDMAN: Again, Senator, I'm a realist in this process. I recognize that there may need to be situations, as you well know, that are less than what we would actually like to see personally. Again, if they're paying the cost, I think one has to weigh that differently than if they're not. And whether or not their opportunity is to receive a benefit that they're going to pay for versus one that they're not going to pay for at all, I think that's a different discussion. So whether or not it needs to be an individual plan or a family plan, if they're paying the full cost I think is something for discussion. It goes back to the same comment I made to Senator Avery, your younger individuals generally are going to be a lower cost unless there are some catastrophic issues or some preexisting conditions that may increase the cost of the pool, but your general costs are going to be higher the older the individual is. So whether or not it's a greater cost or not is going to have to be weighed by that individual and whether they want to choose that. But if they're paying for it, Senator Kopplin's question, I think that changes the discussion for me than if they're not. And if I'm being asked as a taxpayer to pay \$740 more for an individual's spouse and dependents to receive health insurance, I'm probably going to opt that they only have individual coverage. [LB850]

SENATOR RAIKES: Okay. I don't see anything else. Thank you, Senator. You going to stick around? [LB850]

SENATOR ERDMAN: I wouldn't miss the discussion, Mr. Chairman. [LB850]

SENATOR RAIKES: Okay, so let's get right to it then. Proponents, LB850, I believe. John, welcome back. [LB850]

JOHN BONAIUTO: Thank you. It seems like I was just here. Senator Raikes, members of the committee, John Bonaiuto, executive director Nebraska Association of School Boards, B-o-n-a-i-u-t-o. As an organization, having talked with board members and talked with my board of directors about this issue, we see this very similar to the way Senator Erdman does, that it's nice to have this opportunity offered to school board members if they paid for the insurance themselves. We would like to continue to have insurance made available, and whether this law was a good law or bad law or it was a law that was put on the books years ago that it wasn't very directive, the board members that were using it, I can't speculate why or what the situations were, but I hate to characterize board members as being less than honorable in having run for the board and assume their office. The suggestions I would make is number one, picking up on Senator Kopplin's comment, I think that lines 7 and 8, you could strike that from the bill which limits this to a single coverage. The line that says such coverage shall not be provided by the district to the spouse or a dependent. If the board member is going to pay for the coverage themselves, whether it's for themselves or for their family, I don't think that really is an issue. The other area is on line 13-17, if we are going to have this truly be something that the board members have offered but will pay the premium, then there's really no reporting. There's nothing to report, because the district isn't

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contributing to the board members' coverage. And I think that's the way most board members and school districts have handled it when they had a board member that really felt they wanted to take advantage of the insurance that the board member paid the premium. And I do want to clarify, I'm not disagreeing with something Senator Erdman has said, but being a trustee of the Educators Health Alliance board and working with Blue Cross/Blue Shield, and knowing a little bit about the underwriting rules and the way this works, if an individual is part of the insurance plan or program for at least five years, then they can convert the insurance and continue to take it even after they were off the board. So if a board member was on a board for two terms and was part of the insurance program and then left the board, they could then continue taking the insurance coverage and be billed independently. That's just the way it works. We do that with retired teachers, retired administrators, and so it's no different than for other people taking insurance. [LB850]

SENATOR RAIKES: Senator Howard has a question. [LB850]

SENATOR HOWARD: Thank you, Chairman Raikes. Continuing with what Senator Raikes had asked earlier about the ESU board members, you would see them as being in the same situation... [LB850]

JOHN BONAIUTO: Treated in the same way. Yes. [LB850]

SENATOR HOWARD: Would you also say the new learning community board members? [LB850]

JOHN BONAIUTO: Yes, although that's a different kind of board because they do receive a stipend... [LB850]

SENATOR HOWARD: But they are elected officials, as are we, and we do receive a stipend. [LB850]

JOHN BONAIUTO: Yes. [LB850]

SENATOR HOWARD: But no insurance. [LB850]

JOHN BONAIUTO: I want to make sure that I think about this in the right vein. That's not a school board, so they would not be covered under this law. It's a different kind of board, I'm not sure what kind, but it's not a school board. It's a different animal in the sense that they govern, but the schools are independent of that board. [LB850]

SENATOR HOWARD: It is different, but there are many similarities. [LB850]

JOHN BONAIUTO: Yes. This particular law would just deal with the school boards, but

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that's a good question. We want to make that distinction. [LB850]

SENATOR HOWARD: Thank you. [LB850]

SENATOR RAIKES: Other questions? Senator Adams. [LB850]

SENATOR ADAMS: John, would it be fair to say, and I know that you probably don't have data, so your response may be purely anecdotal, but the fact that insurance coverage exists in whatever shape and form right now varies districts--maybe even other political subdivisions, NRDs, city council, etcetera, provided probably is to some degree an incentive for people to run for office. [LB850]

JOHN BONAIUTO: It is... [LB850]

SENATOR ADAMS: I'd like to think they run for reasons other than, then they get there, and realize that this becomes a fringe benefit. [LB850]

JOHN BONAIUTO: Right, and I appreciate that and that's true. I think that people see it in that vein, Senator. [LB850]

SENATOR ADAMS: Then I suppose the sword could cut both ways, and we may have people that need to leave public office and the insurance allows them to, forces them, compels them to keep their clause there. [LB850]

JOHN BONAIUTO: It could and the nice thing is if they've been around for five years, they could take the insurance with them, also. [LB850]

SENATOR ADAMS: And that's indefinitely? [LB850]

JOHN BONAIUTO: Yes, that's correct. That is the way it works with the... [LB850]

SENATOR ADAMS: Family as well? [LB850]

JOHN BONAIUTO: ...yes, that's true. If they've taken family, then can convert family. If they've taken single, they can convert single. [LB850]

SENATOR RAIKES: Senator Johnson. [LB850]

SENATOR JOHNSON: Well, and actually I agree wholeheartedly. One of the real problems with insurance has been the lack of portability. It should be your insurance policy that you take it no matter where you go, and so on, and there's how you start that and so on. That's where you get into the problematic things, but that part I have no problem supporting at all. I think this is a much better way of looking at it. [LB850]

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SENATOR RAIKES: John, on the issue of reporting, if a legislator accepts football tickets for UNL and pays for them, does UNL still report that they've received the tickets? [LB850]

JOHN BONAIUTO: I'm not sure the answer to that... [LB850]

SENATOR RAIKES: I think they do... [LB850]

SENATOR AVERY: They do. It's considered a benefit, because it's not available to the general public. [LB850]

JOHN BONAIUTO: Is it for Accountability and Disclosure that even if...okay. [LB850]

SENATOR RAIKES: So isn't this analogous? Somebody on the street can't step up to the counter at the school building and say I want to buy health insurance and I'm willing to pay... [LB850]

JOHN BONAIUTO: In that respect, it may be something that the district would have a record of it, and those would be open records and available to the public if there are board members taking insurance and paying their own premium. I wasn't looking at it in the same vein, but to be completely open and shed light on the situation, that would not be a problem. [LB850]

SENATOR RAIKES: Okay, any other questions for John? I see none. Thank you, John. [LB850]

JOHN BONAIUTO: Thank you. [LB850]

SENATOR RAIKES: So we'll go to the next proponent. A reluctant proponent, well maybe not (laughter). [LB850]

HERB SCHIMEK: This is the NSEA/school board tag team. Mr. Chair, my name is Herb Schimek. That's spelled S-c-h-i-m-e-k, here speaking in opposition to LB850. This is a better bill than LB849... [LB850]

SENATOR RAIKES: Wait a minute. Just a second. [LB850]

SENATOR AVERY: You said opposition. [LB850]

SENATOR RAIKES: Are you a proponent or an opponent? [LB850]

HERB SCHIMEK: I guess I'm an opponent. [LB850]

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SENATOR RAIKES: Do we have any other proponents? Okay, we'll go to opponents. Herb. [LB850]

SENATOR JOHNSON: Don't go far. [LB850]

HERB SCHIMEK: I apologize to the committee. A couple things that, I was looking at the bill, in lines 7 and 8, in many small communities you have an awful lot of members of a family, many times school board members, who work for the school district. Would that keep them from getting coverage is a question that I happen to have, because it says it shall not provide in the district to spouses or dependents. So it might be something to take a look at. We have no problem at all of a school board member paying the full freight, and having it reported in the board minutes if somebody's interested in that. We think coverage is very, very important. Do you have any questions? [LB850]

SENATOR RAIKES: Well, I'm glad you kept it brief this time, Herb. Senator Avery. [LB850]

SENATOR AVERY: Just for the record, I want you to know I'm not trying to restrict the number of people who are covered by health insurers. My question is not whether they're covered, but who pays for it. [LB850]

HERB SCHIMEK: Fully understand. [LB850]

SENATOR AVERY: Just wanted that on the record. [LB850]

SENATOR RAIKES: Any other questions? I don't see any. Thank you, Herb. [LB850]

HERB SCHIMEK: Thank you very much. [LB850]

SENATOR RAIKES: Any other opponents? Okay, we'll move to neutral testimony, LB850. I see none, Senator Erdman. [LB850]

SENATOR ERDMAN: Thank you, Mr. Chairman, members of the committee. The amendment that I offered, AM1603 also strikes on line 15, where it says starting with the word "and...and the cost of the district of all insurance premiums." Obviously as Mr. Bonaiuto pointed out, that's not required if the individual is paying their cost, but I would offer starting in line 14 that they report annually the board members that have elected such coverage. And that report would include any member that would've received that during that year, so that way it may be a little easier for the district to handle. Mr. Schimek's comments I think are instructive. I think we would want to look at that. I think what we may find is that it would prohibit the spouses from receiving the benefit under

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this statute, but because they were permanent employees, they would still have the opportunity to receive that. There may be some conflict, and again that goes back to Senator Kopplin's original question as to whether or not they should be eligible for family coverage or not, and that would probably be the guidance we would use in dealing with lines 7 and 8. Again, I think clarity is important. I'm interested in learning that former members can continue on receiving the benefit as a former board member of health insurance, even after their service is done. That is something new to me. I think it would be interesting to most Nebraskans to know that, because I think most of the school board members, at least those that I know personally aren't aware of that. So I think that's an interesting development that I've learned today, but again I'd be willing to work with the committee should the committee feel as I do, that clarification is needed in the application of this law and guidance for the districts. Again, as I said in my earlier comments, that any consistency needed for ESUs or other similarly elected boards without pay would be something I would be open to as well. [LB850]

SENATOR RAIKES: Okay, thank you, Senator. Questions for Senator Erdman? You would, I take it, not have a problem with a board member receiving insurance paid for by the district if that board member's spouse works for the district either as an employee of the district? [LB850]

SENATOR ERDMAN: I'm racing to think back to the eligibility to serve on a school board, and I think the general prohibition is that individual themselves cannot be an employee. So that also, Senator, is an interesting question because of the dynamic of the relationship between the two. I think one would obviously have to weigh in an election whether or not that individual could be unbiased in setting the public policy for that district, and given the fact that they have an employee in their own household that they would have direct oversight over. But again I think that's something that we should consider, and I think how we address the issue of whether or not it should be open to families or not, may be the cleanest way to address that prohibition in lines 7 and 8. [LB850]

SENATOR RAIKES: So you're back again to prohibiting family coverage? [LB850]

SENATOR ERDMAN: No, my comment is that, as Senator Kopplin has asked, if you leave it open to them to be able to have family coverage, as long as they're paying for the full amount, it would likely address that issue because then it wouldn't have any prohibition on only individuals receiving that coverage regardless of the other relationships of the members of their family to the school district, whether they're employees or not. So if the bill simply allowed them to have that as long as they're paying for it, the questions you brought up would be addressed. [LB850]

SENATOR RAIKES: Well, my wife is superintendent. As a part of her job, she receives family health coverage, and I'm a school board member. [LB850]

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SENATOR ERDMAN: That would make for some interesting dinner conversations I would think. [LB850]

SENATOR RAIKES: About health insurance? [LB850]

SENATOR ERDMAN: Is she a superintendent? Just in general, is she a superintendent of a Class I or... [LB850]

SENATOR RAIKES: No, she's still superintendent, so she wouldn't be. Take that! (laughter) [LB850]

SENATOR ERDMAN: I just wanted to make sure that the impetus behind LB126 wasn't address some other issues you couldn't get resolved locally, but... [LB850]

SENATOR RAIKES: You're talking about that REAR bill, are you? [LB850]

SENATOR ERDMAN: No, you'd have to ask Senator Avery about that REAR bill or Senator Adams. But no, Senator Raikes, I think those are all part of this discussion, and how we limit it potentially has unintended consequences. But again, providing no clarity I think leads to either distrust or dissatisfaction in the way that districts handle other issues. And I think at this time in our state, and I think at this time in education in Nebraska, I think that's the last thing that we need. [LB850]

SENATOR RAIKES: Okay, any other questions for Senator Erdman? I don't see any. Thank you, Senator Erdman. [LB850]

SENATOR ERDMAN: Thank you for your patience today. [LB850]

SENATOR RAIKES: That will close our hearing on LB850, and will close the hearings for the day. Thank you for being here. [LB850]

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Disposition of Bills:

LB849 - Indefinitely postponed.

LB850 - Advanced to General File, as amended.

Chairperson

Committee Clerk